

## CLASSIFICATION OFFICE DECISION

**Title of publication:** 2-2020-04-06-10.07.41

**Other known title(s):** 2-2020-04-06-10.07.41.pdf

**OFLC ref:** 2000151.000

**Medium:** Image File

**Distributor:** Not stated

**Country of origin:** Aotearoa New Zealand

**Language:** English, Ukrainian

**Applicant:** Commissioner of Police

**Classification:** Objectionable.

**Descriptive note:** None

**Display conditions:** None

**Date of entry in Register:** 23 April 2020

**Date of direction to issue a label:** No direction to issue a label has been issued

**Date of notice of decision:** 23 April 2020

### Summary of reasons for decision:

'2-2020-04-06-10.07.41' is a screenshot displaying a Telegram channel on a dark background. The image captures an anonymous social media post that contains a selfie and accompanying text in English and Ukrainian. The selfie features a menacing individual wearing a balaclava and large sunglasses in a car. The entrance of the Al Noor mosque seen through the passenger window. The derogatory text contains an implicit but palpable threat of violence directed against the Muslim community that attends the mosque. The Telegram channel is known to have been set up in the immediate aftermath of the Christchurch mosque attacks and features content that celebrates the perpetrator and his extremist ideology. The post is likely to constitute a crime under the criteria set out in s306 of the Crimes Act 1961. In making determinations around content of this kind under s3(3)(d) of the Films, Videos and Publications Classification Act 1993 (FVPC Act) the Classification Office is required to draw a distinction between offensive, abusive or threatening language (sometimes referred to as 'hate speech') and language or rhetoric that is likely to promote or encourage acts of crime, violence or terrorism (considered 'dangerous speech'). In carrying out this task the Classification Office is well aware of its obligation to find the right balance between protecting the public from extremist promotion and propaganda, with the need to protect individual freedom of expression. The Classification Office has concluded that the social media post featured in the image is a derogatory and threatening piece of branded white extremist propaganda. It effectively promotes and celebrates the Christchurch mosque attacks and its perpetrator whilst threatening further violence of a similar kind. Although the post does not directly exhort others to carry out criminal or terrorist acts, the proposition it brazenly represents has the potential to encourage

impressionable individuals to issue threats of their own, or carry out their own violent plans. The availability of the post has rapidly extended beyond the original Telegram channel through screenshots and posts on other social media applications. Irrespective of whether the post represents a real threat or not, the fear and anxiety it has engendered constitutes a significant injury to the public good. Although the Al Noor mosque appears to be specifically targeted, the psychological impact may well extend to the wider Muslim community and other members of the New Zealand public who were traumatised by the events of 15 March 2019. Furthermore, the ongoing availability of this post normalises highly racist, derogatory, threatening, and likely criminal behaviour towards a minority group in New Zealand. Accordingly, the Classification Office considers '2-2020-04-06-10.07.41' to be objectionable under s3(3)(d) of the FVPC Act due to the extent and degree to which, and manner in which, it promotes white extremist terrorism. This classification limits the right to freedom of expression set out in the New Zealand Bill of Rights Act 1990 but is reasonable and justified in this case in order to prevent injury to the public good.